

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

James Benard Lee,

Plaintiff,

v.

Pamela Lee Jumper,

Defendant.

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C/A No. 6:12-394-TMC

**ORDER**

James Benard Lee ("Plaintiff"), proceeding *pro se*, filed this civil action claiming "false imprisonment" against the Defendant, Pamela Lee Jumper ("Jumper"), a private individual, who works as an assistant manager at a convenience store in Greenville, South Carolina. At the time of the filing of this action, the Plaintiff was a Greenville County detainee. According to the allegations in the Complaint, Defendant Jumper contacted law enforcement and told them that Plaintiff had stolen certain items from the convenience store, thereby resulting in Plaintiff's arrest. However, when videotapes were viewed, they did not show Plaintiff taking the things Jumper said he did. Plaintiff seeks damages for the number of days lost from work while he was incarcerated on the charges based on Jumper's report.

In accordance with 28 U.S.C. § 636(b)(1) and Local Rule 73.02(B)(2)(e), D.S.C., all pre-trial proceedings were referred to a Magistrate Judge. The Magistrate Judge's Report and Recommendation (Dkt. No. 9), filed on February 21, 2012, recommends that the court dismiss the Complaint in the above-captioned case without prejudice. The Report and Recommendation ("Report") sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's Report

herein without a recitation. As set forth in his Report, the Magistrate Judge recommended dismissal of the Complaint based upon lack of diversity jurisdiction under 28 U.S.C. § 1332, and insufficient allegations to show that the case is one “arising under the Constitution, laws, or treaties of the United States”, 28 U.S.C. § 1331

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report (Dkt. No. 9 at 6). However, Plaintiff filed no objections to the Report and Recommendation.

In the absence of objections to the Magistrate Judge’s Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’ ” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas*

*v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). See Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.").

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation (Dkt. No.9) and incorporates it herein. It is therefore **ORDERED** that the Complaint in the above-captioned case is **DISMISSED** without prejudice.

**IT IS SO ORDERED.**

s/Timothy M. Cain  
Timothy M. Cain  
United States District Judge

Greenville, South Carolina  
April 2, 2012

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.